

CENTER FOR DISABILITY ACCESS  
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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

**Samuel Love,**

Plaintiff,

**v.**

**Amba L.L.C.,** a California Limited  
Liability Company;

Defendants,

**Case No.**

**Complaint For Damages And  
Injunctive Relief For  
Violations Of:** Americans With  
Disabilities Act; Unruh Civil  
Rights Act

Plaintiff Samuel Love complains of Amba L.L.C., a California Limited Liability Company ("Defendants"), and alleges as follows:

**PARTIES:**

1. Plaintiff is a California resident with physical disabilities. He is substantially limited in his ability to walk. He is a paraplegic. He uses a wheelchair for mobility.

2. Defendant Amba L.L.C., a California Limited Liability Company owns and operates the Fontaine Inn San Jose located at 2460 Fontaine Rd., San Jose,

1 California currently and at all times relevant to this complaint.

2 3. Plaintiff does not know the true names of Defendants, their business  
3 capacities, their ownership connection to the property and business, or their  
4 relative responsibilities in causing the access violations herein complained of,  
5 and alleges a joint venture and common enterprise by all such Defendants.  
6 Plaintiff is informed and believes that each of the Defendants herein, is  
7 responsible in some capacity for the events herein alleged, or is a necessary  
8 party for obtaining appropriate relief. Plaintiff will seek leave to amend when  
9 the true names, capacities, connections, and responsibilities of other  
10 Defendants are ascertained.

11  
12 **JURISDICTION:**

13 4. The Court has subject matter jurisdiction over the action pursuant to 28  
14 U.S.C. § 1331 and § 1343(a)(3) & (a)(4) for violations of the Americans with  
15 Disabilities Act of 1990, 42 U.S.C. § 12101, et seq.

16 5. Pursuant to supplemental jurisdiction, an attendant and related cause  
17 of action, arising from the same nucleus of operative facts and arising out of  
18 the same transactions, is also brought under California's Unruh Civil Rights  
19 Act, which act expressly incorporates the Americans with Disabilities Act.

20 6. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b) and is  
21 founded on the fact that the real property which is the subject of this action is  
22 located in this district and that Plaintiff's cause of action arose in this district.

23  
24 **PRELIMINARY STATEMENT**

25 7. This is a lawsuit challenging the reservation policies and practices of a  
26 place of lodging. Plaintiff does not know if any physical or architectural  
27 barriers exist at the hotel and, therefore, is not claiming that that the hotel has  
28 violated any construction-related accessibility standard. Instead, this is about

1 the lack of information provided on the hotel's reservation website that would  
2 permit plaintiff to determine if there are rooms that would work for him.

3 8. After decades of research and findings, Congress found that there was  
4 a "serious and pervasive social problem" in America: the "discriminatory  
5 effects" of communication barriers to persons with disability. The data was  
6 clear and embarrassing. Persons with disabilities were unable to "fully  
7 participate in all aspects of society," occupying "an inferior status in our  
8 society," often for no other reason than businesses, including hotels and  
9 motels, failed to provide information to disabled travelers. Thus, Congress  
10 decided "to invoke the sweep of congressional authority" and issue a "national  
11 mandate for the elimination of discrimination against individuals with  
12 disabilities," and to finally ensure that persons with disabilities have "equality  
13 of opportunity, full participation, independent living" and self-sufficiency.

14 9. As part of that effort, Congress passed detailed and comprehensive  
15 regulations about the design of hotels and motels. But, as importantly,  
16 Congress recognized that the physical accessibility of a hotel or motel means  
17 little if the 61 million adults living in America with disabilities are unable to  
18 determine which hotels/motels are accessible and to reserve them. Thus,  
19 there is a legal mandate to provide a certain level of information to disabled  
20 travelers.

21 10. But despite the rules and regulations regarding reservation procedures,  
22 a 2019 industry article noted that: "the hospitality sector has largely  
23 overlooked the importance of promoting accessible features to travelers."

24 11. These issues are of paramount important. Persons with severe  
25 disabilities have modified their own residences to accommodate their unique  
26 needs and to ameliorate their physical limitations. But persons with disabilities  
27 are never more vulnerable than when leaving their own residences and having  
28 to travel and stay at unknown places of lodging. They must be able to ascertain

1 whether those places work for them.

2  
3 **FACTUAL ALLEGATIONS:**

4 12. Plaintiff planned on making a trip in March of 2021 to the San Jose,  
5 California, area.

6 13. He chose the Fontaine Inn San Jose located at 2460 Fontaine Rd., San  
7 Jose, California because this hotel was at a desirable price and location.

8 14. Plaintiff needs an accessible guestroom. He needs clearance around  
9 beds, he needs accessible restroom facilities including accessible sinks,  
10 accessible tubs or showers and accessible toilets. He needs sufficient  
11 maneuvering clearance in and around the guestroom. He needs accessories to  
12 be located within an accessible reach range. In short, he benefits from and  
13 needs compliant accessible guestroom features.

14 15. While sitting bodily in California, Plaintiff went to the Fontaine Inn San  
15 Jose reservation website at <https://www.fontaineinn.com/> seeking to book an  
16 accessible room at the location on October 21, 2020.

17 16. Plaintiff found that there was little information about the accessibility  
18 of the rooms. For example, under the “ADA/Accessible Features” tab, it  
19 mentions features such as: “Accessible Guest Rooms with 32 Inch Wide  
20 Openings”, “Accessible Registration Check-in Counter”, “ADA Accessible  
21 Guest Room”, “On-Site Designated Accessible Parking”, “Registration Desk is  
22 Accessible”, “Wheelchair Accessible”, and “Wheelchair Ramp”. These are  
23 vague and conclusory statements. Likewise, under the “Double Queen Room  
24 - Accessible” room description it merely states: “The Double Queen Disabled  
25 Accessible Room at Fontaine Inn is wheelchair accessible and has a private  
26 bathroom with full bath with grab bars.” It further states under the  
27 “ADA/Accessible Bathroom Features” tab: “Grab Bars at Tub with a Tub  
28 Seat”, “Hand-held Shower Wand”, “Lowered Towel Hooks and Racks”, and

1 “Toilet Grab Bars”. These vague and conclusory statements offer little detail.  
2 For example, there is no specific information on whether the desk/table in the  
3 room is accessible, or if the sink and toilet are accessible, or if the common  
4 areas are accessible.

5 17. The defendant’s reservation system failed to identify and describe the  
6 accessible features in the guestroom chosen by the plaintiff in enough detail to  
7 reasonably permit him to assess independently whether the particular  
8 guestroom met his accessibility needs.

9 18. This lack of information created difficulty for the plaintiff and the idea  
10 of trying to book this room -- essentially ignorant about its accessibility --  
11 caused discomfort for the Plaintiff.

12 19. Plaintiff would like to patronize this hotel but is deterred from doing so  
13 because of the lack of detailed information through the hotel’s reservation  
14 system. Plaintiff not only travels frequently but is always on the lookout for  
15 businesses that violate the law and discriminate against him and other persons  
16 with disabilities, intending to have them comply with the law and pay statutory  
17 penalties.

18  
19 **I. FIRST CAUSE OF ACTION: VIOLATION OF THE AMERICANS**  
20 **WITH DISABILITIES ACT OF 1990** (On behalf of Plaintiff and against all  
21 Defendants.) (42 U.S.C. section 12101, et seq.)

22 20. Plaintiff re-pleads and incorporates by reference, as if fully set forth  
23 again herein, the allegations contained in all prior paragraphs of this  
24 complaint.

25 21. Under the ADA, it is an act of discrimination to fail to make reasonable  
26 modifications in policies, practices, or procedures when such modifications  
27 are necessary to afford goods, services, facilities, privileges advantages or  
28 accommodations to person with disabilities unless the entity can demonstrate

1 that taking such steps would fundamentally alter the nature of the those goods,  
 2 services, facilities, privileges advantages or accommodations. See 42 U.S.C. §  
 3 12182(B)(2)(A)(ii).

4 22. Specifically, with respect to reservations by places of lodging, a  
 5 defendant must ensure that its reservation system, including reservations  
 6 made by “any means,” including by third parties, shall:

- 7 a. Ensure that individuals with disabilities can make  
 8 reservations for accessible guest rooms during the same  
 9 hours and in the same manner as individuals who do not  
 10 need accessible rooms;
- 11 b. Identify and describe accessible features in the hotels and  
 12 guest rooms offered through its reservations service in  
 13 enough detail to reasonably permit individuals with  
 14 disabilities to assess independently whether a given hotel  
 15 or guest room meets his or her accessibility needs; and
- 16 c. Reserve, upon request, accessible guest rooms or specific  
 17 types of guest rooms and ensure that the guest rooms  
 18 requested are blocked and removed from all reservations  
 19 systems.

20 *See* 28 C.F.R. § 36.302(e).

21 23. Here, the defendant failed to modify its reservation policies and  
 22 procedures to ensure that it identified and described accessible features in the  
 23 hotels and guest rooms in enough detail to reasonably permit individuals with  
 24 disabilities to assess independently whether a given hotel or guest room meets  
 25 his or her accessibility needs and failed to ensure that individuals with  
 26 disabilities can make reservations for accessible guest rooms during the same  
 27 hours and in the same manner as individuals who do not need accessible  
 28 rooms.

1 **II. SECOND CAUSE OF ACTION: VIOLATION OF THE UNRUH CIVIL**  
 2 **RIGHTS ACT** (On behalf of Plaintiff and against all Defendants.) (Cal. Civ.  
 3 Code § 51-53.)

4 24. Plaintiff repleads and incorporates by reference, as if fully set forth  
 5 again herein, the allegations contained in all prior paragraphs of this  
 6 complaint. The Unruh Civil Rights Act (“Unruh Act”) guarantees, inter alia,  
 7 that persons with disabilities are entitled to full and equal accommodations,  
 8 advantages, facilities, privileges, or services in all business establishment of  
 9 every kind whatsoever within the jurisdiction of the State of California. Cal.  
 10 Civ. Code §51(b).

11 25. The Unruh Act provides that a violation of the ADA is a violation of the  
 12 Unruh Act. Cal. Civ. Code, § 51(f).

13 26. Defendants’ acts and omissions, as herein alleged, have violated the  
 14 Unruh Act by, inter alia, failing to comply with the ADA with respect to its  
 15 reservation policies and practices.

16 27. Because the violation of the Unruh Civil Rights Act resulted in difficulty  
 17 and discomfort for the plaintiff, the defendants are also each responsible for  
 18 statutory damages, i.e., a civil penalty. *See* Civ. Code § 52(a).

19  
 20 **PRAYER:**

21 Wherefore, Plaintiff prays that this Court award damages and provide  
 22 relief as follows:

23 1. For injunctive relief, compelling Defendants to comply with the  
 24 Americans with Disabilities Act and the Unruh Civil Rights Act. Note: the  
 25 plaintiff is not invoking section 55 of the California Civil Code and is not  
 26 seeking injunctive relief under the Disabled Persons Act at all.

27 2. Damages under the Unruh Civil Rights Act, which provides for actual  
 28 damages and a statutory minimum of \$4,000 for each offense.

1        3. Reasonable attorney fees, litigation expenses and costs of suit, pursuant  
2 to 42 U.S.C. § 12205; and Cal. Civ. Code § 52(a).

3  
4 Dated: December 8, 2020

CENTER FOR DISABILITY ACCESS

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8 By: \_\_\_\_\_

9 Russell Handy, Esq.

10 Attorneys for Plaintiff  
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